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5 Attorney for Plaintiff
SUSAN RAE OWENS

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

10 SUSAN RAE OWENS.

Plaintiff,

V.

13 ERICA L. BRACHFELD, A
14 PROFESSIONAL CORPORATION, D/B/A
15 BRACHFELD & ASSOCIATES, P.C.,
16 D/B/A LAW OFFICES OF BRACHFELD &
17 ASSOCIATES, P.C., a California
corporation, and ERICA LYNN
BRACHFELD, individually and in her
official capacity.

Case No. C07-04400-JF-PVT

**REQUEST TO VACATE MOTION
HEARING AND
[PROPOSED] ORDER**

Defendants.

Plaintiff in the above-entitled action requests that the Court vacate the motion hearing currently scheduled for November 14, 2008, at 9:00 a.m.

On or about August 22, 2008, this Court entered an Amended Judgment in favor of Plaintiff in this case. (Doc. 23) The Judgment awarded Plaintiff the amount of \$2,100 plus reasonable attorney fees and costs incurred in representing Plaintiff in this matter. On August 29, 2008, Plaintiff filed a Motion for Attorney Fees and Costs pursuant to the Court's Amended Judgment. (Doc. 25) The hearing on Plaintiff's Motion for Attorney Fees and Costs is set for November 14, 2008, at 9:00 a.m. before this Court. (Doc. 26) Defendants' response to said motion was due on or before October 24, 2008, pursuant to Civil L.R. 7-3, but Defendants have not filed a response and are in default. In light of Defendants' continued default in this matter, Plaintiff requests that the

1 motion hearing be taken off calendar and that the Court enter an Order Awarding Attorney Fees and
2 Costs by default in this matter without requiring a further appearance by Plaintiff.

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4 Dated: November 11, 2008

/s/ Fred W. Schwinn

Fred W. Schwinn, Esq.

Attorney for Plaintiff

SUSAN RAE OWENS

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[PROPOSED] ORDER

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Having considered the Plaintiff's Request to Vacate Motion Hearing, the request is hereby
8 GRANTED.

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10 Dated: 11/13/08


Honorable Jeremy Fogel
United States District Judge

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